

DISTRICT COURT
WESTERN DIST ARKANSAS
FILED

JUN 13 2018

DOUGLAS F. YOUNG, Clerk
By
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

Heather Brimmer,

Plaintiff,

V.

DENT-A-MED INC. dba HC Processing
Center; and DOES 1-10, inclusive,

Defendants.

[illegible]

Civil Action No.:

18-5108

COMPLAINT AND DEMAND FOR JURY TRIAL

COMPLAINT

For this Complaint, the Plaintiff, Heather Brimmer, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiff, Heather Brimmer (“Plaintiff”), is an adult individual residing in Casper, Wyoming, and is a “person” as defined by 47 U.S.C. § 153(39).
4. Defendant DENT-A-MED INC. dba HC Processing Center (“DAMI”), is a Arkansas business entity with an address of 203 East Emma Avenue, Suite A, Springdale, Arkansas 72764-4625, and is a “person” as defined by 47 U.S.C. § 153(39).

FACTS

5. Within the last year, DAMI called Plaintiff's cellular telephone, number 307-xxx-7534, using an automatic telephone dialing system ("ATDS") and/or by using an artificial or prerecorded voice.

6. When Plaintiff answered calls from DAMI, she heard a prerecorded message instructing Plaintiff to hold for the next available representative, or requesting a return call.

7. During a live conversation in or around September 2017, Plaintiff requested that all calls to her cellular telephone number cease.

8. In complete disregard of Plaintiff's cease request, DAMI continued to place automated calls to Plaintiff's cellular telephone number.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

9. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

10. At all times mentioned herein and within the last year, Defendant called Plaintiff on her cellular telephone using an ATDS or predictive dialer and/or by using a prerecorded or artificial voice.

11. Defendant continued to place automated calls to Plaintiff's cellular telephone after being directed by Plaintiff to cease calling and knowing there was no consent to continue the calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

12. The telephone number called by Defendant was assigned to a cellular telephone serviced by Net10 for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

13. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.

14. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. Each of the aforementioned calls made by Defendant constitutes a violation of the TCPA.

16. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

17. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: June 6, 2018

Respectfully submitted,

By: 

Sergei Lemberg, Esq.

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